

1992 ANNUAL REPORT

In All Fairness



Appeals Commission

Workers' Compensation Act - Alberta

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Our Mission



To provide a timely, independent and responsive appeals process to injured workers and employers, consistent with natural justice and fairness, applying relevant legislation, policy and procedure.

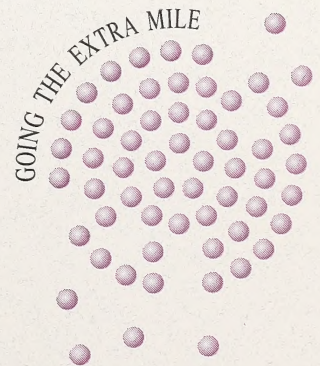
A Word From the Chief Appeals Commissioner


I am pleased to present the Appeals Commission Annual Report for the year ending December 31, 1992.

In our 1991 Annual Report I discussed our need to adapt to the environment affecting the types of appeals the Commission receives. As expected, 1992 was a challenging year. This is because of our commitment to improving the quality of our decisions, both in their rationale and the writing of the decisions. The Commission is also committed to developing a more effective approach to appeals arising from complex, multiple issues.

In 1992, we increased communication with stakeholders through meetings with employer and worker organizations. My focus is for balanced communication with all our stakeholders. This ensures parties coming before the Commission understand our role, and how it helps serve both employer's and worker's interests equally.

To improve service, we expanded our operations in Calgary to function on a full-time basis. Previously the Commission operated solely from Edmonton. The new Calgary office allows for more timely hearings to better service southern Alberta appellants and their representatives. To keep costs to a minimum Edmonton staff relocated to Calgary with no increase in the Commission's staff complement, and with a significant reduction in travel costs. This move allowed the appointment of





southern Alberta commissioners representing the interests of employers and workers.

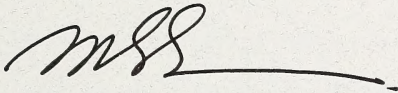
To better critique our level of service to date, and learn where we need to improve, the Commission sent out a survey to appellants, interested parties, representatives, and relevant W.C.B. staff. Results of this survey are included later in this report. My reading of the survey shows the Commission must continue to let the public know we are independent of the Workers' Compensation Board. Secondly, we must ensure the hearing process is timely. Thirdly, we must be more consistent in our hearing procedures.

The survey results helped us set goals for 1993. We set these goals in the context of the challenge created by the increase in the number of appeals and the increase in complex issues, such as chronic pain and occupational stress claims.

The Commission's challenge for 1993 is to continue to "*go the extra mile*". As the last level of appeal, parties must have the opportunity for a fair, open and timely appeals process.

I have every reason to be proud of the Commission's achievements during 1992 largely due to the professional and dedicated efforts of Commission staff. Combined with the cooperation and support of

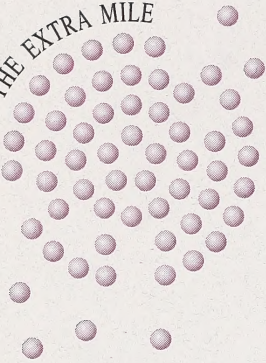
the W.C.B.'s board of directors, management and staff, the Commission was able to carry out its mandate as an independent appeals tribunal.

A handwritten signature in black ink, appearing to read 'M. Bahry', followed by a long horizontal line.

Morris E. Bahry
Chairman and Chief Appeals Commissioner

The Commissioners

GOING THE EXTRA MILE



Commissioners represent the interests of workers or employers. A commissioner designated as a hearing chairman is appointed to a five year term, while commissioners are appointed to a one year term. The Lieutenant Governor in Council makes these appointments.

Hearing Chairman

Gerald Litchfield

Gerald Litchfield became the first permanent hearing chairman for southern Alberta in November, 1992. He was appointed a commissioner and hearing chairman on October 1, 1989, following eight years as the secretary and business representative for the United Food and Commercial Workers Local 373A. Previously, he was employed by Canada Safeway for 23 years as a meat cutter. He is active in both community and church interests in his native Lethbridge. He served two terms as a senator with the University of Lethbridge. He is an honorary chief of the Blood Indian Reserve.

Charlach Mackintosh

Charlach Mackintosh, appointed as a commissioner on November 1, 1988, became a hearing chairman on October 1, 1989. His former employment includes operating a private business, and 29 years working for major oil companies with management responsibility in the areas of risk, insurance and administration. He is a past

president of the Alberta Risk and Insurance Management Society and past director of the American Society of Insurance Management.

Irvin Nessel

Irvin Nessel is an acting hearing chairman, first appointed as a commissioner on December 1, 1988. He was a representative of the International Union of Operating Engineers for 35 years and is a journeyman heavy equipment operator, blacksmith, farrier and wheelwright. He was chairman of the board of referees of the Unemployment Insurance Commission and was a member of the Gale Commission on Occupational Health and Safety. He is a graduate of the Harvard University Trade Union Program.


Paul Tichinoff

Paul Tichinoff was appointed on October 15, 1988 as a commissioner and hearing chairman. This followed a career in the energy sector in senior management positions involving operations, employee relations and loss management.

Commissioners

Maureen Butler

Appointed May 27, 1992, Maureen Butler has a Master of Education (Industrial and Vocational) Degree and a Bachelor of Science



Degree in nursing. She is a former coordinator and training supervisor of the P.H.O.E.N.I.X. Training and Development Foundation for the occupational development of persons with physical disabilities. Maureen is physically challenged through a compensable accident which occurred in 1985. Her prior 20 years experience involved nursing instruction and practice in Lethbridge, Calgary and Edmonton. She is an author and coauthor of various research papers and publications in the fields of nursing and vocational education.

Bill Canning

Bill Canning was appointed on September 1, 1991. Before this appointment he spent 20 years with the Alberta Labour Relations Board, 13 years as vice-chair. He previously worked for the University of Calgary, and the Saskatchewan Power Corporation, where he was a union representative for 10 years.

Ron Clark

Ron Clark was appointed a commissioner on December 1, 1988. He is a former management consultant and director of organization development for the Government of Alberta. He was responsible for the development and implementation of the first Occupational Health and Safety Program for Alberta Government employees.

Orest Eveneshen

Orest Eveneshen was appointed a commissioner on January 30, 1992. He recently retired from A.G.T. after thirty-six years employment. He was their director of Public Mobile Systems and Customer Service. As a member of A.G.T. management for thirty-one years, Mr. Eveneshen's employment highlights included the successful negotiated joint A.G.T./Edmonton Telephones customer service order procedure agreement.

Bruce Flesher

Bruce Flesher was appointed a commissioner in December 1988. He has extensive experience as an owner and operator in the hospitality industry. He is a past president of the Alberta Restaurant Food Services Association. He serves as a counselling assistant to small enterprises (CASE) with the Federal Business Development Bank.

Larry Kelly

Larry Kelly was appointed a commissioner on December 1, 1990. He most recently was the business manager for the International Brotherhood of Electrical Workers Local 1007 in Edmonton. He is past president of the Alberta and N.W.T. Council of Labour, former member of the Labour Legislation Review Committee, and the United Way board of directors.

Jack Kenny

Jack Kenny was appointed a commissioner on November 1, 1989. He operated an extensive management consulting business after holding the position of general manager at Beta Well Service, and other oilfield service companies.

Larry Medd

Larry Medd was appointed a commissioner on June 14, 1990. He has experience as a small business owner and manager in the construction industry. Formerly, he was the executive director of the Alberta Ready Mixed Concrete Association.

Norma Meroniuk

Norma Meroniuk was appointed a commissioner on November 1, 1988. She was a former board member of the Elk Point Hospital and the Apprenticeship and Trade Certification Board as well as the Advisory Panel-Apprenticeship and Industry Training Review Board. She managed pharmaceutical retail stores for over 20 years.

Eric Paterson

Eric Paterson was appointed a commissioner on December 1, 1990. He was formerly employed by Edmonton Transit for over 40 years and was the assistant business agent and financial secretary, Amalgamated Transit Union 569. He was a gold medal winner

on the 1952 Canadian Olympic hockey team, the Edmonton Mercurys.

Deo Seebaran

Deo Seebaran was appointed a commissioner on December 1, 1989. He was a journeyman heavy duty mechanic before his work related injury, and a shop steward for the United Steelworkers of America, Local 5458.

The Hearing Process

GOING THE EXTRA MILE

The Workers' Compensation Act established the Appeals Commission November 1, 1988 as the final appeal body for worker's and employer's appeals. These appeals arise from Claims Services Review Committee or Assessment Review Committee Decisions of the Workers' Compensation Board.

As a quasi-judicial tribunal operating independently of the Workers' Compensation Board, the Commission's decision-making process is independent, final and binding.

In 1992, 15 commissioners served on the Appeals Commission in addition to the chairman and chief appeals commissioner.

The Commission works in a non-intimidating hearing setting to encourage fair and open exchanges of information. Hearings are closed to the public because of their confidential nature. Only those persons directly affected may attend a hearing. For instance, an employer could attend a worker's appeal hearing and a worker can attend an employer's hearing.

The Commission uses hearing teams, made up of a hearing chairman, commissioners, two registrars, and a panel secretary. The Commission keeps these hearing teams in place for one calendar year to maintain continuity, streamline work to improve the

timeliness of hearing appeals, and to foster a good working relationship between the team members. Every January the teams rotate their membership, do team building, and work as a semi-autonomous group for the calendar year.

Judicial Reviews

In 1992 there were five actions filed in the Court of Queen's Bench relating to Commission Decisions. This added to the six outstanding from previous years. During the year, one judicial review request was discontinued by the applicant party. One was dismissed by the Court of Queen's Bench and one the Commission agreed to reconsider the Decision.

One Queen's Bench Decision was appealed to the Court of Appeal by the Commission. The remainder were adjourned to be heard in 1993.

Highlights of 1992 Appeals

Temporary Total Disability Benefit Appeals

A significant number of appeals received by the Appeals Commission involve payment of temporary total disability benefits. Appellants often request payment of these benefits beyond

the time the W.C.B. determined the worker to be fit to return to work.

Medical evidence and the appellant's capability to engage in employment determine entitlement decisions.

The Commission is bound by legislation and policy. When workers recover from an injury to a point they are capable of engaging in alternate employment, temporary total disability benefits cease. Alternate services including vocational rehabilitation may be available through the W.C.B.

Level and Extent of W.C.B. Responsibility

Work related injuries may trigger underlying conditions. Appeals received often require a determination as to the degree of W.C.B. responsibility caused by the injury.

The Commission makes decisions which impact numerous areas. These include ongoing entitlement to monetary benefits and services, and employer appeals for cost relief.

Assessment Appeals

In 1990, the Commission received the jurisdiction to hear assessment appeals. Assessment appeals received in 1992 were diverse and challenging. The majority dealt with employer dissatis-

faction with their industry classification and resultant rate. Other employer concerns included payroll assessments, experience rating and deemed workers.

The Appeals Commission recognizes employer appeals impact other employers and cannot be considered in isolation. The Commission is adopting procedures to address the concerns of those impacted by assessment decisions.

Survey Results



In December, 1992, the Commission mailed out 294 surveys and received 109 responses for an overall response rate of 37.1%. The Commission's audience included appellants, both worker and employer, interested parties (for instance an employer on a worker appeal), representatives and specific Workers' Compensation Board staff who were required to carry out Commission Decisions.

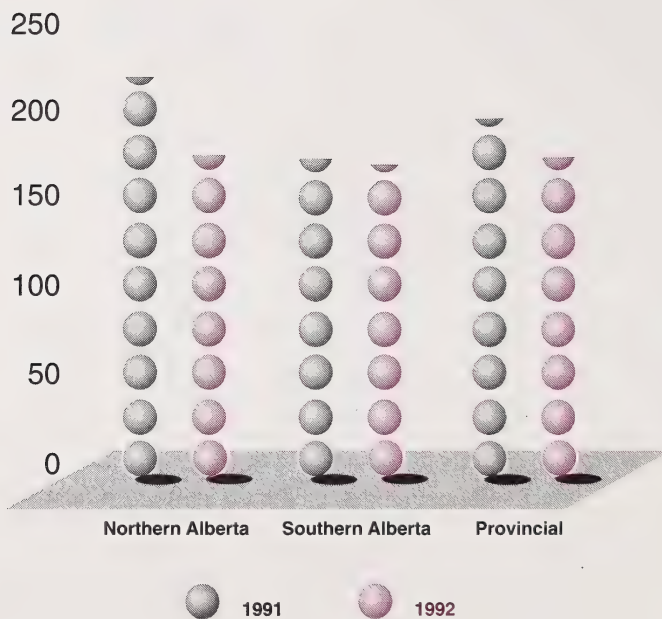
Results of the survey varied depending on whether the appellant was successful or not. On the following page are some results of the survey covering all audience groups on all surveys.

Survey Statement	Appellants Agree With Statement Successful Appellants (%)	Appellants Agree With Statement Unsuccessful Appellants (%)
A) Appellants		
1. Appeals Commission is independent of WCB	64.3%	10%
2. I felt comfortable with the hearing procedure	80%	12.5%
3. The hearing was informal	86.7%	32.4%
4. Time from appeal to hearing reasonable	53.5%	20%
5. Time from hearing to decision was reasonable	73.3%	30%
B) Interested Parties		
6. The Commission is independent of WCB	88.9%	
7. The Hearing was informal	62.5%	
C) Representatives		
The Commission is independent of WCB	53%	
The chairman's introduction eased their concerns about the Appeals Commission	40%	
Time from appeal to hearing was reasonable	27%	
Time from hearing to Decision was reasonable	33%	
D) WCB Staff		
Communication from Appeals Commission to WCB staff was clear and understandable	85%	
WCB staff received decision in reasonable time frame to implement Decision	85%	
Appellants' benefits clearly set out in Decision	82%	

Commission Timelines

Appeal Received to Decision Sent

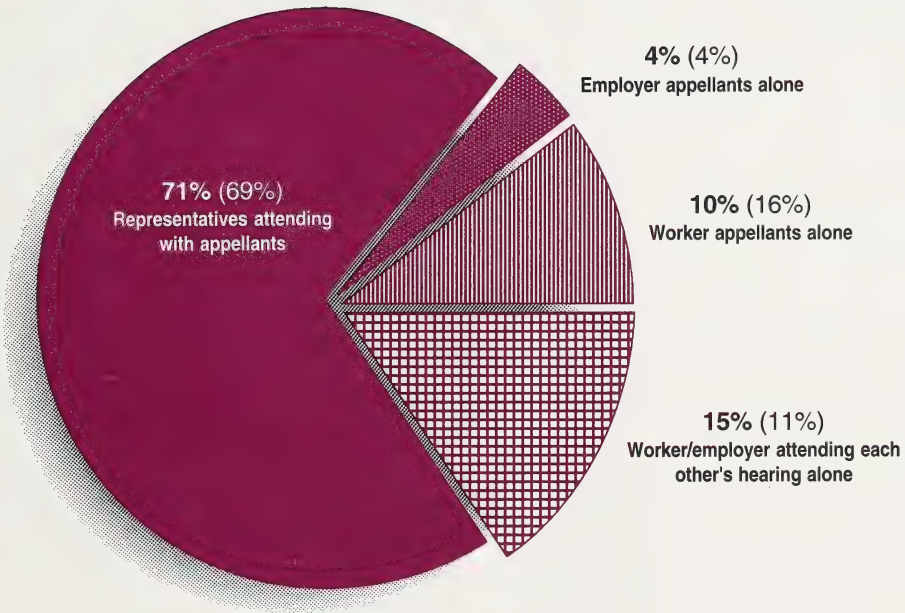
	1991	1992	Improvement
Northern Alberta	209	172	17%
Southern Alberta	170	159	6%
Provincial	189 days	164 days	14%



The time frames above include Red Deer in Northern Alberta. Southern Alberta represents approximately 1/3 of all appeals.

Hearing Representative Comparison

1992 (1991)



This graph indicates:

- The slight increase in representatives (+2%)
- Worker appellants attending alone decreased (-6%)
- Worker or employer attending each others hearing increased (+4%)
- No change in employers attending their hearing without representation

The Financials

1992

Salaries and Benefits

(including commissioner contract payments).....

Travel

- in province \$70,522
- out of province 1,123.....

Memberships.....

Publications and Subscriptions.....

Training and Development.....

Consulting Fees.....

Total Expenditures.....

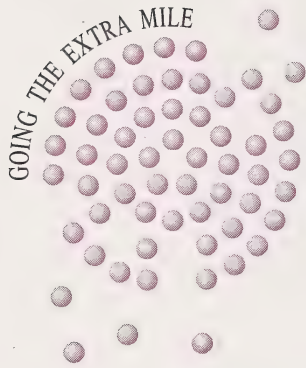
3 Year Comparison 1992

Budget.....\$1,831,595

Expenditures.....\$1,815,426

Non Expended.....\$16,169

* The Workers' Compensation Board provides leasing of office space, fixtures, computer and other equipment, and office expenditures.



1992	1991
..... \$1,711,981	\$1,668,737
..... 71,645	67,628
..... 575	348
..... 1,731	1,992
..... 15,063	23,798
..... 14,431	2,734
..... \$1,815,426*	\$1,765,237*

1991	1990
\$1,893,622	\$2,000,800
\$1,765,237	\$1,736,014
\$128,385	\$264,786

Productivity Report

January 1, 1992 to December 31, 1992



Commission Appeals outstanding as at January 1 Commission Decisions outstanding as at January 1 Total outstanding

(A) Appeals received in 1992 from: Claims Services Review Committee Decisions

Claims Services Review Committee Decisions

- Upheld
- Partially Upheld
- Overturned

Total

(B) Appeals received in 1992 from: Assessment Review Committee Decisions

- Transfer of Costs Appeals
- Assessment Appeals

Transfer of Costs Decisions

- Upheld
- Overturned

Assessment Decisions

- Upheld
- Partially Upheld
- Overturned

(C) Reconsideration requests received from previous Board or Commission Decisions

- Previous Decisions supported
- Partial Request supported
- New Hearing of Decision overturned

Appeals withdrawn or premature
Total Appeal Hearings held
Total Decisions made
Total Appeals and Reconsideration Requests
outstanding as at December 31

* These appeals and decisions were not shown separately in 1990
** Reconsideration decisions were not shown separately in 1990 or 1991

1992	1991	1990
207	224	282
69	67	185
276	291	467
684	664	624
351	328	345
51	65	84
103	164	248
505	557	677
3	13	*
10	7	•
5	3	*
0	2	*
3	6	*
1	0	*
0	0	*
77	77	56
52	45	5
1	**	**
13	24	**
161	139	*
511	571	*
587	568	*
313	276	291

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